

ESTABLISHMENT OF CUSTODY, VISITATION, AND CHILD SUPPORT INFORMATION AND INSTRUCTIONS

CONFIDENTIALITY: If you have concerns about keeping information confidential such as your address and/or social security number, please consult an attorney. You should also know that Domestic Violence Protection Orders or Stalking Orders are available free of charge at the Circuit Court Clerks' offices. You may request assistance in obtaining Domestic Violence Protection or Stalking Orders from your local domestic violence or sexual assault program or you may call the Wyoming Coalition Against Domestic Violence & Sexual Assault (1-307-755-0992). There are also private attorneys who may be willing to assist clients in these matters. If you have ever obtained a Protection Order against the other party, this information should be indicated in the *Petition to Establish Custody, Visitation and Child Support* or the *Counterclaim*.

This packet is to establish custody, visitation, and child support if you and the other parent were never married and both parents are listed on the birth certificate for each child. If paternity has not been acknowledged or established, please see your local child support agency for assistance. You must fill out all forms as completely as possible. If your forms are not complete, the Judge may reject your packet.

Step 1. Getting Started. The following forms are required to establish custody, visitation, and child support where both parents agree on these matters. It is recommended that you complete all of these forms before you file the *Petition to Establish Custody, Visitation, and Child Support* so that they will be ready to file at the appropriate time:

1. Civil Cover Sheet
2. Petition to Establish Custody, Visitation, and Child Support
3. Summons
4. Confidential Statement of the Parties for Child Support Order
5. Acknowledgement and Acceptance of Service
6. Confidential Financial Affidavit (both parties must file a financial affidavit)
7. Affidavit for Order Establishing Custody, Visitation and Child Support Without Appearance of Parties
8. Order Establishing Custody, Visitation, and Child Support
9. Order for Income Withholding
10. Income Withholding for Support (or, you can also open up a case with your local child support enforcement agency and they will prepare this form for you)

****Other forms may be required depending on the Court and on your situation. If additional forms are needed, they will be discussed below where applicable.**

Remember, your packet contains many forms that will not be required in all situations. Be sure to follow these instructions carefully to ensure you have completed the correct forms for your situation.

Step 2. File the Petition. In order to advise the Court that you wish to establish custody, visitation, and child support, you must file the *Petition to Establish Custody, Visitation, and Child Support* (“Petition”). If you are filing the *Petition*, you are the “Petitioner.” The other party will be referred to as the “Respondent.”

Notarizing Signatures. Some forms will require you to have your signature notarized. Notarial Officers may administer the oath and witness your signature, or in many cases, Clerks of Court will be willing to administer the necessary oath. Each Clerk’s office has their own policy so check with them first before seeking notarization of your signature on the forms.

Where to file. You will file your case in the District Court in the county where either you or the Respondent resides. The *Petition* is given to the **Clerk of the District Court**, whose office is usually located in the county courthouse or a branch of the county courthouse. A list of the Clerks of District Court for each Judicial District is included in the packet. A **filing fee** is required. Ask the Clerk what the amount of the filing fee is and what forms of payment are accepted.

Case Number: When you start a lawsuit by filing the paperwork with the Clerk of the District Court, a case number will be assigned by the Clerk. You must include that case number on all further paperwork in the “**caption**.” The caption is the top section of a pleading, motion, and petition stating the name of the Petitioner, the Respondent, the District Court the case is filed in, and the case number.

Other forms to file with the *Petition*.

A. When you file the *Petition*, you will also need to file the ***Civil Cover Sheet***. Follow the instructions that accompany that document.

B. You will also need to fill out and file a ***Confidential Statement of the Parties for Child Support Order***. This form provides the Court with personal information (such as social security numbers and birth dates) of the parties involved in your case as required by Wyoming law. This information will be in a confidential file so that the general public does not have access to the information.

C. You will also need to have the Clerk sign (a/k/a “issue”) the ***Summons***.

How many copies. Take the original and two (2) copies of each document to the Clerk’s office. The Clerk will give you copies of each document back after stamping them with the date they were filed. This is called a “**file stamp**.” You should keep one copy of each document for your records. The other set of documents will need to be served upon the Respondent.

Summary of Step 2: To start your case, you will need to file the following documents with the Clerk of the District Court's office located in the county courthouse in the county where either you or the Respondent resides:

- A. ***Civil Cover Sheet***
 - a. Follow the instructions that accompany this form for help completing it correctly.
- B. ***Petition to Establish Custody, Visitation, and Child Support***
- C. ***Confidential Statement of the Parties for Child Support Order***; and
- D. ***Summons***
- E. Pay the ***filing fee***
- F. Take the original and two (2) copies of each document to the Clerk's office.
 - a. The Clerk will give you both copies back after file-stamping them
 - b. You should keep one copy for your records.
 - c. The other set of documents will need to be served upon the Respondent (Step 3).

Step 3. Serve the Respondent. Once the *Petition* and *Confidential Statement of the Parties for Child Support Order* are filed, a file-stamped copy must be formally given to (a/k/a **served** on) the Respondent. **Personal service** of the *Petition*, *Confidential Statement of the Parties* and *Summons* on the Respondent by a **Sheriff** is required **unless** the Respondent completes an ***Acknowledgment and Acceptance of Service*** form. Formal service is required for the *Petition* and the *Confidential Statement of the Parties for Child Support Order* so the Court has proof that the other party actually received the paperwork. Other forms of service exist, but these are the easiest methods that meet the formal service requirement for a *Petition*. If you cannot serve the Respondent by either of these methods, ask the Clerk for additional forms for other ways to obtain service.

You **MUST** give the Respondent official notice that you have filed a *Petition* and *Confidential Statement of the Parties for Child Support Order* **within 90 days** from the date you filed them. This is done by serving a copy of the *Summons*, the *Petition*, and the *Confidential Statement of the Parties for Child Support Order* upon the Respondent or by having the Respondent sign an *Acknowledgment and Acceptance of Service* form stating that copies of those documents were received. If you do not serve the Respondent within 90 days, your case can be dismissed by the Court.

A. **How to Serve the Respondent.** Choose **ONLY ONE** of the following options to serve the Respondent:

Option 1– Service by Sheriff

Summons. It is recommended to have a sheriff in the county where the Respondent can be found serve him or her with the papers. There will be a separate **service fee** (usually fifty (\$50.00) dollars in Wyoming). You can contact the Sheriff's department in the county where the Respondent lives to determine the fee charged by the Sheriff. This is also true if the Respondent is going to be served out of state. You will need to provide the Sheriff with a file-stamped copy of the *Summons*, *Petition* and *Confidential Statement of the Parties for Child Support Order* to be served on the Respondent.

Proof of Service. The Sheriff's office will complete the last page of the *Summons* called the "***Return***" (or they may have their own form – an "***Affidavit of Service***") and will usually file the original with the Clerk's office and send you a copy. If you receive what looks like the original "***Return***" or "***Affidavit of Service***" from the Sheriff, call the Clerk's office to ensure the original has been filed. If it has not, then file the original with the Clerk's office and keep a copy for yourself. This is the proof that the Respondent was given proper notice;

Note: Once the Respondent has been served, you **MUST** file the original *Summons* and original *Return* (or *Affidavit of Service*) with the Clerk's office so that the Judge knows that proper service was made.

OR:

Option 2 – Acknowledgement and Acceptance of Service. If the Respondent agrees, he or she may sign a form stating that a file-stamped copy of the *Summons*, *Petition* and *Confidential Statement of the Parties for Child Support Order* were received. If the Respondent agrees, you will need to fill out an *Acknowledgement and Acceptance of Service* form. The Respondent must sign this document in front of a Notarial Officer.

Proof of Service. Once the *Acknowledgement and Acceptance of Service* form is signed, take the original and two (2) copies of the signed form to the Clerk's office for filing. You should keep one copy for your records and provide the other copy to the Respondent.

Note: You must file the signed *Acknowledgment and Acceptance of Service* form and the original *Summons* with the Clerk's office so that the Judge knows that proper service on the Respondent was made.

RECAP for Step 3: You **MUST** give the Respondent official notice that you have filed a *Petition* within 90 days from the date you filed the *Petition*. Choose one of the following methods:

Option 1 – Service by Sheriff

- A. Provide copy of the *Summons*, *Petition* and *Confidential Statement of the Parties for Child Support Order* to Sheriff where the Respondent lives;
- B. Pay the *service fee*; and
- C. Once the Respondent is served, be sure the original *Summons* and the original *Return* or *Affidavit of Service* are filed with the Clerk's office; **OR**

Option 2 – Acknowledgement and Acceptance of Service

- A. Provide a copy of the *Summons*, *Petition* and *Confidential Statement of the Parties for Child Support Order* to the Respondent;
- B. Have the Respondent sign the *Acknowledgment and Acceptance of Service* form in front of a Notarial Officer;
- C. File the original *Acknowledgment and Acceptance of Service* form and the original *Summons* with the Clerk's office.

Step 4. Wait for the Respondent's time to respond to expire. Once the Respondent is served, he or she has 20 days (if served in the State of Wyoming or 30 days if served out-of-state) to file a **Response** to the *Petition*. You must wait for the appropriate time period to expire before you can proceed with the case. You must wait the 20 days (or 30 days if served out-of-state) even if the Respondent tells you that he or she is not going to file a *Response*.

- **Computation of Time Limits.** In computing most time limits, unless otherwise stated, the day the document is served shall not be included. The last day of the time period is included, unless it lands on a Saturday, a Sunday, or a legal holiday, or, if the Courthouse is closed then the time limit will be on the very next day that the Courthouse is open. **If you have questions about time limits you should seek the advice of an attorney.**
- While waiting, move on to **Step 5**. You can also use this time to continue to work on the other required forms to be sure they are filled out completely and correctly.

RECAP for Step 4: You MUST wait for the Respondent's time to file a *Response* to expire before you can proceed with your case. In the meantime:

- A. Mark on the calendar when the time to file a *Response* expires;
- B. Move on to **Step 5** while waiting; and
- C. Use this time to ensure the required forms are filled out completely and correctly.

Step 5. Initial Disclosures. The law requires certain information be made available within thirty (30) days after the respondent is served, including a summary of the facts believed to support the claim of superior entitlement to custody where child custody is at issue.

Please note that "A party must make its disclosures based on the information then reasonably available to it and is not excused from making its disclosures because it has not fully completed its investigation of the case or because it challenges the sufficiency of another party's disclosures or because another party has not made its disclosures."

- A. **WHEN TO SERVE:** Initial Disclosures must be sent to the Respondent (or his/her attorney) **WITHIN 30 DAYS AFTER THE RESPONDENT IS SERVED. Be sure to keep a copy of this document for your records.**
- B. **DO NOT FILE THE INITIAL DISCLOSURES WITH THE COURT.** This form is only given to the Respondent (or his/her attorney).

RECAP for Step 5: You MUST provide your *Initial Disclosures* to the Respondent within 30 days after the Respondent is served with the *Summons, Petition* and *Confidential Statement of the Parties for Child Support Order*.

- A. Mark on the calendar the deadline to send your *Initial Disclosures*; and
- B. Send your *Initial Disclosures* to the Respondent by the deadline.
- C. DO NOT file the *Initial Disclosures* with the Clerk's office.

Step 6. Once the time for the Respondent to file a *Response* has expired and you sent your *Initial Disclosures* to the Respondent, then several options exist to move your case forward. Pick the option that best describes your situation:

Option A. If the Respondent filed a *Response* or *Response and Counterclaim* and you both agree on all of the issues of your case, follow **Option A** below.

Option B. If the Respondent did not file a *Response* or *Response and Counterclaim*, follow **Option B** below.

Option C. If the Respondent filed a *Response* or *Response and Counterclaim* and you do NOT agree on all of the issues of your case, follow **Option C**.

Option A. The following instructions apply if the Respondent filed a Response or Response and Counterclaim, and you both agree on all of the issues of your case. If you and the Respondent agree on the issues involved in your case, then you will need to complete the following:

A. **Fill out a *Confidential Financial Affidavit* and attach all required documents.**

- Both parties are required to file a ***Confidential Financial Affidavit*** including the required attachments with the Court. If the Respondent does NOT file a *Confidential Financial Affidavit*, you will need to complete an ***Affidavit of Imputed Income*** to show the Court how much money the Respondent makes. This is an additional form contained in your packet.
- **Required Attachments.** The *Confidential Financial Affidavits* of the parties must be supported with documentation of both current and past earnings. Proper documentation of current earnings includes, but is not limited to pay stubs, employer statements, or receipts and expenses if self-employed. Documentation of current earnings shall be supplemented with copies of the most recent tax return to provide verification of earnings over a longer period. Include copies of income tax returns for the previous two years and your most recent pay stub(s) to show how much you have made so far this year.

B. Fill out an ***Affidavit for Order Establishing Custody, Visitation and Child Support Without Appearance of Parties***. This form provides the admissible evidence the Court needs to enter an *Order* without requiring the parties to attend a hearing.

C. Fill out an ***Order Establishing Custody, Visitation, and Child Support*** (“Order”). This form will need to be filled out completely, signed by both you and the Respondent and both

of your signatures notarized. **In addition to signing the *Order*, you should also initial each page of the *Order* to verify that each page contains the terms you agreed upon.**

Here are some important laws and helpful hints in completing the *Order*:

- **Custody and Visitation.** You and the Respondent need to determine which custody and visitation plan will apply in your circumstances. It is unusual for the Court not to award any visitation or supervised visitation to the non-custodial parent.
 - *If there is a concern that your child(ren) may be harmed by the other parent physically and/or emotionally, you should seek advice from someone familiar with parenting and child development issues. There may be an organization in your community that can help facilitate visitation between the children and you or the other parent. You can also contact the facilitators of any parenting classes in your community for other ideas.*
- **Factors to be considered for awarding custody and visitation.** The *Order* contains several options for custody and visitation arrangements. Ideally, both parents will work together to select the proper custody and visitation plan depending upon the family circumstances. In awarding custody and setting forth a visitation plan, Wyoming law requires that the Court consider the following factors:
 1. The geographic location of each parent;
 2. Each parent's willingness and ability to perform the child care duties associated with the child(ren), relative to the child(ren)'s stage of development such as feeding, changing, bathing, preparing the child(ren) for school, taking responsibility for the child(ren)'s homework, etc.;
 3. Each parent's ability to care for the child(ren)'s needs (consider not only historical involvement but a parent's willingness and ability to learn the necessary skills, as well);
 4. The lack of hostility between the parents;
 5. The ability of both parents' work schedules and the child(ren)'s schedule to accommodate extended access;
 6. The child(ren)'s age(s) and strength of attachment to each parent;
 7. The child(ren)'s relationship with his/her friends.
- **Child(ren)'s interests should control.** The use of a calendar for scheduling purposes is highly recommended. The parents' work schedules and the child(ren)'s school and extracurricular activities need to be considered when developing a visitation plan. This is especially true for those parents who do not enjoy a traditional work week. While visitation should be an enjoyable and enriching experience, it is an obligation and responsibility for each parent as well

as a right and a privilege. Both parents must also have a good faith commitment to developing and carrying out a visitation plan. You need to focus on what type of schedule would be in the child(ren)'s best interest.

- **Parenting classes.** At any time the Court may require parents to attend appropriate parenting classes, including, but not limited to, parenting classes to lessen the effects of custody battles on children. Both parents are generally required to attend classes when they are ordered. If the class is ordered, you **MUST** file a **Certificate of Completion** with the Clerk's office. This certificate is provided by the class instructor.
- **Child Support Payments.** You will need to determine the amount of child support due based upon the *Confidential Financial Affidavits* you and the Respondent completed (or by the *Affidavit of Imputed Income* if the Respondent did not complete his/her own *Confidential Financial Affidavit*). You may use the ***Child Support Computation Form*** as a guide to help you calculate the support due or contact your local child support enforcement agency for assistance. Another option is to go online to:

http://www.laramiecounty.com/_departments/_district_court/calculator.aspx

to calculate child support.

- **You CANNOT agree that no support will be paid.** Wyoming law allows for a reduced amount of support when you agree on joint physical custody, each parent keeps the child(ren) overnight for more than forty percent (40%) of the year, and both parents contribute substantially to the expenses of the children in addition to the payment of child support.
- Where the combined ***net monthly*** income of ***both*** parents is less than eight hundred forty-six dollars (\$846.00), the non-custodial parent has to pay twenty-two percent (22%) of his/her net income for one (1) child and twenty-five percent (25%) of his/her net income for two (2) or more children, but the minimum amount of child support a person has to pay cannot be less than fifty dollars (\$50.00) per month for each family unit in which there are children to whom the noncustodial parent owes a duty of support.
- There are NO DEVIATIONS from the presumed support allowed UNLESS the Court CHOOSES to deviate from the set amount because the amount was unjust or inappropriate in the particular case. The Court must include the specific reasons for deviation in the *Order*.
- **NO AGREEMENTS FOR LESS THAN THE PRESUMED SUPPORT CAN BE APPROVED IF GOVERNMENT OR STATE**

BENEFITS (SUCH AS TITLE 19, KID CARE, FOOD STAMPS, POWER, ETC.) ARE BEING PROVIDED ON BEHALF OF ANY CHILD. This means the Court cannot lower the amount of child support calculated by using the net income of you and the Respondent even if you and the Respondent agree to a lower amount of support.

- **Medical Support.** The law requires that medical support for the child(ren) be included as part of any child support order. The Court shall order either or both of the parents to provide medical support, if insurance can be obtained at a reasonable cost and the benefits under the insurance policy are accessible to the children. This may include dental, optical or other health care needs for the child(ren). In addition, the Court will order that any medical expenses not covered by insurance and any deductible amount on the required insurance coverage be paid by one or both parents. If both parents are ordered to pay for expenses not covered by insurance, the Court will specify the proportion for which each parent is responsible (for example, 50% to Petitioner and 50% to Respondent).

D. Fill out an ***Order for Income Withholding***. The Court is required by statute to enter an ***Order for Income Withholding*** in every case where child support has been ordered.

E. Fill out an ***Income Withholding for Support***. This form is required if you need to have the child support paid directly from a non-custodial parent's employer. If you need assistance in filling out this form, or if you need assistance in collecting child support, you should contact the child support enforcement agency in your district. The Clerk can provide you with the agency's contact information.

F. **Other Forms:** Other forms may be required depending on the county where your case is filed. Ask the Clerk if additional forms are required.

G. **Copies and Envelopes.** Take an original and two (2) copies of each of the above documents for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order* to you and the Respondent). A copy of any documents that you file (other than the *Order*) must be sent to the Respondent on the date that you filled out on the *Certificate of Service* on each document.

- If a hearing is not required by your Court, the Clerk will mail a copy of your *Order* if accepted by the Court.
- If a hearing is required by your Court, follow the next steps:

H. **Hearing.** In some Courts, a hearing is required before the Judge will sign the *Order*. If this is the case, you will need to request a hearing by completing the **Request for Setting**. If you have reached an agreement, check the box that states that the parties have

reached an agreement. Indicate how much time you will need for the hearing (usually 15 minutes if there is an agreement). You will file the **Order Setting Hearing** with the Clerk's office and the Court will fill in the hearing date and time and mail a copy to you and the Respondent. You will need to provide an addressed, stamped envelope for you and the Respondent to the Clerk. These documents are additional forms that are contained in your packet.

I. **Evidence.** At the hearing, you will need to inform the Judge about your situation and what you are asking him or her to do. You will also need to give the proposed *Order* to the Judge. The Judge may ask you questions. The Judge will not guide you through the hearing, tell you how to proceed or advise you on the law. Following the hearing, the Judge may advise you whether or not changes need to be made to the proposed *Order* by you or the other party or the Judge may make his or her own revisions to the *Order*.

J. **When will your order become final?** Your *Order* will not be final until the Judge approves it and it is filed with the Clerk. This process may take time if changes to the proposed *Order* are required by the Judge. You must verify with the Clerk that the *Order* has been file-stamped before you can be sure your custody, visitation and child support order is final.

Summary of Option A: If you and the Respondent agree on all issues in the case and the Respondent filed a *Response* or *Response and Counterclaim*, complete the following:

Remember: Take an original and two copies of each document to file with the Clerk's office. You will need to send a copy of any filed document to the Respondent unless otherwise stated below.

1. *Confidential Financial Affidavit*;
2. *Affidavit for Order Establishing Custody, Visitation and Child Support Without Appearance of Parties*;
3. *Order For Income Withholding*;
4. *Income Withholding for Support* (or, you can open up a case with your local child support enforcement agency);
5. *Order Establishing Custody, Visitation, and Child Support*
 - Take an original and two (2) copies of the *Order* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order* to you and the Respondent).
6. Complete and file any additional documents required by your Court.
7. If your Court requires a hearing before entering an *Order*, then, you will also need to file and do the following:
 - *Request for Setting*
 - *Order Setting Hearing*
 - Take an original and two (2) copies of the *Order Setting Hearing* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order Setting Hearing* to you and the Respondent).
 - Attend the Hearing

Your order is final when the *Order Establishing Custody, Visitation, and Child Support* has been signed by the Judge and filed by the Clerk.

Option B. If the Respondent does not file a *Response* or *Response and Counterclaim*, obtain a default order by following these steps:

A. **Default Order.** After the required waiting period has expired, you may obtain what is referred to as an order by default if the Respondent does NOT file a *Response* or *Response and Counterclaim* to the *Petition to Establish Custody, Visitation, and Child Support*.

B. **Necessary forms.** Fill out and sign the *Application for Entry of Default* and *Affidavit in Support of Default*. Take an original and two (2) copies of these documents to the Clerk and the blank *Entry of Default*. If your paperwork is correct, the Clerk will sign the *Entry of Default*. These are additional forms that are contained in your packet.

C. **Additional Documents.** After the *Entry of Default* is signed by the Clerk, complete **Step 6, Option A, items A through F** above. **MAKE SURE TO MARK “DEFAULT” ON THE ORDER.**

D. **Default Hearing.** Some Courts will not enter a *Default Order Establishing Custody, Visitation, and Child Support* unless there is a hearing. Ask the Clerk if this is required for your Court. If it is, fill out a *Request for Setting* and request 15 minutes for the hearing. You will file the *Order Setting Hearing* with the Clerk’s office, and the Court will fill in the hearing date and time and mail a copy to you and the Respondent. You will need to provide an addressed, stamped envelope for you and the Respondent to the Clerk.

E. **Evidence.** At the hearing, you will need to inform the Judge about your situation and what you are asking him or her to do. You will also need to give the proposed *Order* to the Judge. The Judge may ask you questions. The Judge will not guide you through the hearing, tell you how to proceed or advise you on the law. Following the hearing, the Judge will make any necessary changes to the *Order* and will sign it.

F. **When will your Order become final?** Your order will not be final until the Judge signs the *Order Establishing Custody, Visitation, and Child Support* and it is filed with the Clerk. This process may take time if the Judge requires changes to the proposed *Order*. You must verify with the Clerk that the *Order Establishing Custody, Visitation, and Child Support* has been file-stamped before you can be sure your order is final. The time limit to appeal an order begins to run from the day the *Order Establishing Custody, Visitation, and Child Support* is filed with the Clerk’s office.

Summary of Option B: If the Respondent did NOT file a *Response* or *Response and Counterclaim*, complete the following:

Remember: Take an original and two copies of each document to file with the Clerk’s office. You will need to send a copy of any filed document to the Respondent unless otherwise stated below.

1. *Application for Entry of Default*
2. *Affidavit in Support of Default*

3. *Entry of Default* (Clerk will sign if your paperwork is correct)
4. *Confidential Financial Affidavit*
5. *Affidavit for Order Establishing Custody, Visitation and Child Support Without Appearance of Parties*
6. *Order for Income Withholding*
7. *Income Withholding for Support* (or, you can open up a case with your local child support enforcement agency)
8. *Order Establishing Custody, Visitation, and Child Support*. **MAKE SURE TO MARK "DEFAULT" ON THE ORDER.**
 - Take an original and two (2) copies of the *Order Establishing Custody, Visitation, and Child Support* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order Establishing Custody, Visitation, and Child Support* to you and the Respondent).
9. Complete and file any additional documents required by your Court.
10. If your Court requires a hearing before entering an *Order Establishing Custody, Visitation, and Child Support*, then, you will also need to file and do the following:
 - *Request for Setting*
 - *Order Setting Hearing*
 - Take an original and two (2) copies of the *Order Setting Hearing* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order Setting Hearing* to you and the Respondent).
 - Attend the Hearing

Your order is final when the *Order Establishing Custody, Visitation, and Child Support* has been signed by the Judge and filed by the Clerk.

Option C. If the Respondent Files a Response or Response and Counterclaim, and you and the Respondent do NOT agree on all issues of your case, you will need to have a trial:

A. **You must file a Reply to the Counterclaim.** If the Respondent has filed a *Response and Counterclaim* for custody, you will have a time limit (usually 20 days) to file a written response (**Reply to Counterclaim**) to the counterclaim. The original signed copy of your reply must be filed with the Clerk and a copy must be sent to the Respondent (or his/her attorney).

- **Caution:** If you do not file the original *Reply to Counterclaim* with the Clerk within the time allowed, the Respondent can seek a default order against you and may get what he/she asked for in his/her counterclaim.

B. **Trial.** If there is no agreement, your case will have to be heard and decided by a Judge at a trial.

- **Caution:** It is strongly recommended that you hire or find an attorney to represent you at trial, though you may represent yourself. You proceed at your own risk and will be expected to know the laws.

C. **Request a trial date.** You will need to request a hearing by completing a ***Request for Setting***. Write in “trial” where it asks the type of hearing. Indicate how much time you think it will take for you and the other party to present your evidence and write that in (usually one (1) to three (3) hours). You also need to decide whether or not you want a court reporter to record the proceeding. SEE BELOW FOR DETAILS ON GETTING A COURT REPORTER. If a hearing is not recorded by an official court reporter, a transcript of the hearing will not be available. It is very difficult to appeal the Judge’s decision if you do not get a court reporter to take down everything that is said at the trial.

- You must file the ***Request for Setting*** and the ***Order Setting Trial and Requesting Pretrial Statements*** with the Clerk’s office, and the Court will fill in the hearing date and time and mail a copy to you and the other party. You will need to provide an addressed, stamped envelope for you and the Respondent to the Clerk. Both the ***Request for Setting*** and the ***Order Setting Trial and Requiring Pretrial Statements*** are additional forms contained in your packet.

D. **Pretrial Disclosures.** Both parties must provide to the other party AND PROMPTLY FILE WITH THE COURT the ***Pretrial Disclosures*** regarding the evidence that it may present at trial. If you have questions, you should contact an attorney.

- When are the ***Pretrial Disclosures*** due? Unless otherwise directed by the Court, these disclosures must be made at least **30 days before trial**.
- Take the original and two (2) copies to the Clerk for filing. Keep one copy for your records and send the other copy to the Respondent (or his/her attorney).

E. **Settlement before trial.** In the event that your case settles before the trial, you must present the Court with the completed and signed ***Order Establishing Custody, Visitation, and Child Support*** before the Court will take the trial off of the schedule. There will be no continuances or canceling of the trial date based on telephone calls. If you need a continuance, you should contact an attorney for assistance in seeking one.

F. **Court Reporter.** If you wish to have a court reporter, you shall provide notice to the appropriate official court reporter as soon as possible, but no later than **three (3) working days** before the matter is set for hearing. You can provide notice to the court reporter by phone or by submitting a written request. Please note that if providing notice through the mail, the request must be received by the court reporter no later than three working days prior to the hearing. The clerk will be able to inform you which court reporter to contact. The three day notice requirement will not be waived by the Court. The notice is required for all civil matters including jury trials.

G. **Evidence and witnesses.** At the hearing, you will need to present your evidence and witnesses. If the ***Order Setting Trial and Requesting Pretrial Statements*** is entered (signed by the Judge), you must follow the terms and provide the Court with the information requested in that document, including copies of exhibits you want to introduce at the trial and a list of your

proposed witnesses and what their testimony is going to be about within the time frame ordered (usually 3 to 5 days prior to the trial). Under the law, the Judge cannot help you or assist you at trial. You are on your own without an attorney.

H. **Final Decision (*Order Establishing Custody, Visitation, and Child Support*)**. Following the trial, the Judge will make a decision or may take the matter under advisement, meaning he or she will need to think further before making a determination. If the Judge instructs you, you must take that decision and type it into the *Order Establishing Custody, Visitation, and Child Support* incorporating the Judge's decision.

- **You are again reminded that, if you choose to continue without an attorney, you are expected to know what to do and how to do it. The Judge will not guide you through the trial/hearing, tell you how to proceed or advise you on the law.**
- **You MUST also file the documents outlined in Step 6, Option A, items A and C through G above.**

I. **When will your order become final?** Your order will not be final until the Judge signs the *Order Establishing Custody, Visitation, and Child Support* and it is filed with the Clerk of Court. This process may take time if the Judge requires changes to the proposed *Order*. You must verify with the Clerk's office that the *Order Establishing Custody, Visitation, and Child Support* has been file-stamped before you can be sure your order is final. The time limit to appeal an order begins to run from the day the *Order Establishing Custody, Visitation, and Child Support* is filed with the Clerk's office.

Summary of Option C: If the Respondent filed a *Response* or *Response and Counterclaim* and you do NOT agree on the issues, complete the following:

Remember: Take an original and two copies of each document to file with the Clerk's office. You will need to send a copy of any filed document to the Respondent unless otherwise stated below.

1. If the Respondent filed a *Response and Counterclaim*, file a *Reply to the Counterclaim* within 20 days after you receive the *Response and Counterclaim*.
2. Request a trial date
 - a. *Request for Setting*
 - b. *Order Setting Trial and Requiring Pretrial Statements*
 - c. Take an original and two (2) copies of the *Order Setting Trial and Requiring Pretrial Statements* for filing with the Clerk and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order Setting Trial and Requiring Pretrial Statements* to you and the Respondent).
3. File your *Pretrial Disclosures* and *Pretrial Statements*
4. No later than 3 working days before the trial, request a court reporter, if desired
5. Attend the Trial
6. *Order Establishing Custody, Visitation, and Child Support*
 - a. Take an original and two (2) copies of the *Order Establishing Custody, Visitation, and Child Support* for filing with the Clerk, and two (2) addressed, stamped envelopes (one addressed to you and one to the Respondent with enough postage to cover the cost of mailing the *Order Establishing Custody, Visitation, and Child Support* to you and the Respondent).
7. *Order for Income Withholding*
8. *Income Withholding for Support* (or, you can open up a case with your local child support enforcement agency)
9. Complete and file any additional documents required by your Court.

Your order is final when the *Order Establishing Custody, Visitation, and Child Support* has been signed by the Judge and filed by the Clerk.